IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 198 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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Appearance:

1. Civil Revision Application No. 198 of 2001
MR MAHENDRA K PATEL for Petitioner No. 1
Mr.M.J.Shelat for
MR GM JOSHI for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 27/03/2002

ORAL JUDGEMENT

1. Heard Mr.Patel for the petitioner. During hearing he took me through the order under challenge passed by the learned Chamber Judge, Court No.10 of the City Civil Court, Ahmedabad below application Exh. Exh.9 in Summary Suit No.4649/99 filed by the respondent plaintiff. It is the contention of Mr.Patel that the learned trial Judge has, while passing the order, ignored

the defence taken by the petitioner - defendant in his reply . It is his contention that even the Accounts produced by the defendant show that there was no outstanding and further that the petitioner defendant has also made payment to the plaintiff and also returned the goods. As found from the order under challenge, the learned trial Judge has, as per order dated 7.12.2000 granted conditional leave to defend to the present petitioner on condition of depositing a sum of Rs.75,000/-- within six weeks from 7.12.2000. Mr. Patel has also relied upon various decisions of this Court as well as of the Calcutta High Court. Considering the ratio in the said Judgments and the order under challenge, it is difficult for this court to hold that the said ratio is applicable to the facts of present case. It is also to be noted that even prior to institution of the suit, a notice was issued, which was not replied by the defendant and the learned trial Judge has rightly observed that no evidence is produced to support the case of the defendant. In view of the above, this court is of the view that this is not a matter, which requires interference while exercising my revisional jurisdiction under Section 115 of the C.P.C. Hence no substance in the present Revision Application and the same stands dismissed. Rule as well as notice stands discharged. Interim relief granted earlier stands vacated forthwith.

Mr. Patel requests for sufficient time to deposit the amount looking to the present situation in the State. Accordingly time to deposit, as per the conditional order, is extended upto 30.4.2002.

(D.K.Trivedi,J)

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